IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE N.V. RAMANA

WRIT PETITION NO : 15957 of 1993

Between:

1 A. Murali Madhava Rao, S/o Satyaji Rao, R/o Cuddapah.
2 A. Parasurama Rao, S/o Satyaji Rao,
R/o Mehadipatnam, Hyderabad.
3 Smt. C. Sarojini, W/o late C. Bhimsena Rao, rep. by Court

Guardian M.S.Raghavendra Rao, R/o Ananthapur.
4 Smt. R. Nirmala, W/o M.S.Raghavendra Rao, R/o Ananthapur

..... PETITIONERS

AND

1 State of Andhra Pradesh rep. by its Secretary to
Government, Roads and Buildings Department,
Secretariat Buildings, Hyderabad.
2 The District Collector, Ananthapur, Ananthapur Dist.
3 The Executive Engineer, Roads and Buildings, Ananthapur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not paying compensation to the petitioners in respect of the lands measuring an extent of Ac.9.56 cents in Survey Nos.210/1, 211/1 & 212/1, situated in Narayanapuram, Ananthapur District, acquired by the respondents for the purpose of laying a bypass road, as unjust, arbitrary, illegal and without jurisdiction and consequently direct the respondents to issue a notification under Section 4(1) of the Land Acquisition Act and pay the

compensation at the market value, to the petitioners for the lands acquired by the respondents.

For the Petitioners: MR. Y. KRISHNA REDDY, Advocate
(Not appeared)

For the Respondents: GP FOR ROADS AND BUILDINGS

The Court made the following :

ORDER:

The petitioners filed this writ petition, seeking to declare the action of the respondents in not paying compensation to them for acquisition of Ac.9-56 cents of land in survey Nos.210/1, 211/1 and 212/1 of Narayanapuram, Ananthapur District, for the purpose of laying a bypass road, as illegal and arbitrary, and consequently to direct the respondents to issue notification under Section 4(1) of the Land Acquisition Act for the said land and pay compensation at the market value to the petitioners.

The petitioners claim to be owners/assignees of the land in question, being the great grand sons of Dr. Chilukuri Narayana Rao, to whom the Tahsildar of Ananthapur, on 17-7-1944, assigned an extent of Ac.37-15 cents, which includes the land in question, under Thungabhadra Scheme, in recognition of his services rendered to the society, and in the year 1971 a pass book was also issued by Deputy Tahsildar, Ananthapur for the said land in favour of Ch. Bhimasena Rao, who is the son of the said Chilukuri Narayana Rao. It is stated that one of the conditions for the said assignment is that in case the Government takes back the land for any purpose, the Government has either to pay compensation at market value or to provide alternative land to the assignees thereof. While the petitioners are enjoying the land in question, the second respondent-District Collector, without giving any notice or opportunity of hearing to them, acquired the land in question for the purpose of laying a bypass road. Though the petitioners submitted several representations and also got issued a legal notice requesting the respondents to pay compensation, no action has been taken by the respondents. Hence, the writ petition.

Though the writ petition was admitted in the year 1993 and Rule nisi was issued, none of the respondents had filed any counter-affidavit. In the circumstances, this

Court on 29-9-2004 directed the District Collector, Ananthapur (2nd respondent) and Executive Engineer, Roads & Buildings, Ananthapur (3rd respondent) to appear before this Court today and explain the reasons for not filing counter-affidavit all these days.

When the matter came up today, respondents 2 and 3 appeared before this Court and filed counter-affidavit stating that out of the lands assigned to Dr. Chilukuri Narayana Rao in D.A. R.Dis.No.151/41, dated 17-7-1994, an extent of Ac.8-46 cents comprising Ac.0-84 cents in Survey No.210/1A, Ac.4-00 in Survey No.211/1C, and Ac.3-62 cents in Survey No.212/1B, was taken for the purpose of laying bypass road on the National Highway No.7. The respondents mainly contended that as the said lands are assigned lands, no compensation is payable to the assignees thereof in the event of their acquisition. They also contended that the said lands, being assigned lands, were not included and notified in the Draft Notification and Draft Declaration issued under Land Acquisition Act, for the reason that separate action will be taken for their resumption and transfer to the requisitioning department. Thus, they pray to dismiss the writ petition.

None appeared for the petitioners.

Heard the learned Government Pleader for Roads and Buildings.

It is settled proposition of law that assignees of the Government lands are entitled to payment of compensation on par with full owners of the land even in cases where the assigned lands are taken possession of by the Government for a public purpose. In a decision of this Court in **LAO-cum-RDO, Chevella Division, Domalaguda, Hyderabad Vs. Mekala Pandu,** it was held, thus:

"The assignees of the Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with terms of the grant of patta, though such resumption is for a public purpose. We further hold that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of Land Acquisition Act, 1984, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of Land Acquisition Act. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land."

The learned Government Pleader also fairly conceded to the above proposition and submitted that the petitioners are entitled for compensation in respect of acquisition of the subject land.

Having regard to the facts and circumstances of the case and in view of the fact that the petitioners are entitled for compensation for acquisition of the subject land, I deem it appropriate to dispose of the writ petition in the following terms:

The respondents are directed to pass award in accordance with law, in respect of the subject land i.e. Ac.8-46 cents of land comprising Ac.0-84 cents in survey No.210/1A, Ac.4-00 in survey No.211/1C and Ac.3-62 cents in survey No.212/1B of Narayanapuram village, Ananthapur District, for formation of bypass road on the National Highway No.7, as specified in the counter-affidavit, and take all necessary steps to pay compensation to the petitioners as per their entitlement. The above exercise of passing of award and payment of compensation shall be completed within a period of six months from the date of receipt of copy of this order. No costs.

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N.V. RAMANA, J

Date: 12-10-2004

Svv

To

1 The Secretary, Roads and Buildings Department, Government of Andhra Pradesh, Secretariat Buildings, Hyderabad.
2 The District Collector, Ananthapur, Ananthapur District.
3 The Executive Engineer, Roads and Buildings, Ananthapur.

4 Two CCs. to Government Pleader, Roads and Buildings, High Court Buildings, A.P., Hyderabad (OUT).

5 Two CD copies.